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SUMMARY

OF THE

POSITION, POLICY and PURPOSE

OF THE

PENNSYLVANIA RAILROAD

IN ITS

DEALINGS WITH ITS EMPLOYES

AS PRESENTED TO THE UNITED STATES RAILROAD LABOR BOARD JULY 8, 1921.

"To protect the right of employes to have a voice in deciding matters affecting their welfare through employe representatives of their own choice, whether union or non-union."

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NOTE.

On July 8, 1921, the management of the Pennsylvania Railroad appeared before the U. S. Railroad Labor Board to reply to charges made by the shop crafts union of the American Federation of Labor.

The union accused the railroad of failing to comply with the Boards decision No. 119 in not negotiating with this organization a new schedule of working conditions for shop craft employes.

The Pennsylvania Railroad's representatives not only refuted the charge but also took occasion to state frankly the position of the company with respect to the Board's rights and powers, the effect of its recent decisions and interpretations thereof and the procedure which the company has followed and intends to pursue in trying to carry out its understanding of the Transportation Act.

The following pages contain the statements of the Pennsylvania Railroad management as presented to the Labor Board.

The issues involved in the case seriously concern the public as well as the employes and the railroad owners.

OPENING STATEMENT TO THE UNITED STATES RAILROAD LABOR BOARD BY MR. E. T. WHITER, ASSISTANT TO THE VICE-PRESIDENT IN CHARGE OF PERSONNEL, PENNSYLVANIA SYSTEM.

We are here in response to your call to make reply to the allegations of the Federated Shop Crafts that the Pennsylvania Railroad has ignored and refused to comply with Principle 15 which was made a part of Decision No. 119.

We desire to use this opportunity to express our views regarding the whole subject, and to state our position very plainly.

R. R. desires to co-operate with Board as long as its decisions permit honest, efficient and economical operation.

The Pennsylvania Railroad has gone along with all the Decisions of the Board which concerned us, notwithstanding the fact that we did not agree with your conclusions in some cases. We want to continue to go along and assist the Board in its work just as long as its Decisions will permit us to operate honestly, efficiently and economically, and in the interests of the public and the owners as well as in the interest of the employes.

Some recent decisions, however, we regret to say, take away the right so to manage our Railroad and as a matter of fact continue centralization despite the promise of decentralization contained in Decision No. 119.

Our position, briefly, is this:

First.—The Board has exceeded the authority given to it by the Transportation Act when it continued in effect by Decision No. 2 the rules, working conditions and National Agreements which were promulgated by the U. S. Railroad Administration.

Board exceeded its authority in taking jurisdiction over national agreements.

The conference committee of Managers repeatedly insisted that these were subjects not properly before the

Board, and the Board itself, in Decision 119, admitted this contention by saying: "These agreements, by their terms, expired with Federal Control," and again in the same Decision it said: "Although Section 301 has not been complied with by the parties, the Board has jurisdiction of this dispute as it is and has been one likely substantially to interrupt commerce."

The Board, we claim, could not take jurisdiction until the provisions of Section 301 had been exhausted. Nevertheless, we complied with the Decision, hoping that the hearing mentioned in Decision 2 would give us the relief for which we had so long contended. Decision 119 was the outcome of that hearing. That Decision, we thought, recognized the unfairness and undue restrictiveness of many of the rules and working conditions and stated that they would "cease and terminate July 1, 1921."

Addendum 2, however, seems to repudiate Decision 119 and continues these rules and National Agreements indefinitely.

Recent decisions take away right of individual negotiation.

Decision No. 119 further recognized, we thought, the right of each individual road to deal directly with its own employes and referred the whole matter back to the individual roads and their employes to negotiate schedules and working conditions. Coupled with the Decision were sixteen so-called principles which the Board directed be followed in the making of schedules. On the other hand, subsequent decisions seem to take away the right of individual negotiation and direct the roads as to what they must do presumably to meet the demands of the organizations.

Second.—If carried out as apparently now intended, these Decisions will have the effect of perpetuating the National Agreements, in spite of the evident opinion of the public that these Railroad Administration pacts be abolished and in spite of the Board's own ruling to that effect.

The Conference Committee of Managers, representing all railroads, explained at great length to the Board the objections to these agreements and developed from the testimony of Mr. McManamy and others the exact circumstances under which they were imposed upon the railroads. This has recently been rehearsed and repeated for the benefit of the Committee of the Senate in its investigation of the present plight of the roads.

Effect of Board's action is to perpetuate national agreeements and establish "closed shop."

With the single exception of overtime, all the onerous features of these agreements will now be continued indefinitely if the Board fails to support our contention. Nevertheless the cases of excessive payments which excited greatest comment at the Senate hearing were those due to the application of the rules of the National Agreement rather than the wage scale itself.

If the country has spoken in no uncertain terms on any one subject, it is on the question of standardization. The railroad officers are not always unanimous, but there are few railroad officers who have not agreed that the present policy of the Board tends directly and inevitably to standardization. On this point Mr. Carl R. Gray, Director, Division of Operation, Railroad Administration, during a part of Federal Control, has stated that the one great mistake of the Railroad Administration was its attempt to standardize these practices.

Whether you prefer to term it the perpetuation of the National Agreements or not, this means only one thing—the closed shop, which all officers will agree was in practical effect during the Railroad Administration. It will not be difficult for the public to determine whether or not the policy and practices of the Railroad Administration are being continued.

Third.—Since Decision No. 119 the Pennsylvania Railroad has proceeded diligently to carry out its understanding of the Board's evident purpose at that time to encourage the railroads to re-

establish relationships with their own employes on the basis of direct dealing, fair play and mutual understanding.

P. R. R. actually restoring harmonious relations with employes. Majority want representation plan.

The experience of the Pennsylvania Railroad in securing the co-operation of its Train Service employes deserves the careful consideration of this Board.

The Pennsylvania Railroad has offered its other employes a similar plan whereby *all classes may have a voice in the management in matters affecting their welfare, through representatives of their own selection, whether union or non-union men.*

The results so far accomplished prove conclusively that a large majority of our employes really desire to participate in this plan. The success of our efforts to get together with our own men under conditions satisfactory to themselves and to our officers alike is assured. The management has agreed with various classes on rules covering working conditions and is making rapid progress in concluding its negotiations with all classes on the Pennsylvania System.

On the other hand, the recent rulings of the Board evidently tend to defeat the efforts of the Pennsylvania Railroad to reach a mutually satisfactory understanding with its employes under which we may all live together and operate the railroad in the interest of the public as well as in the interest of the employes.

It may be reasonably asked why the Pennsylvania Railroad should pursue a different course from that of most of the other railroads in attempting to carry out Decision 119. Perhaps it is because this road has suffered more from union domination since the country went to war and is ready to adopt any reasonable compromise that will secure the co-operation of its employes and the sanction of public opinion. This applies to the Eastern roads as a whole, but more particularly to the Pennsylvania Railroad, and it should be remembered that about one-half of the employes are on the Eastern railroads. It was inevitable

that a protest should be raised against the perpetuation of the National Agreements, and apparently it has fallen to our lot to raise it.

The situation on the Pennsylvania before the war differed in respect to the degree of organization existing among the various classes of employes on other roads. There were no schedules with any of the employes except in train service and with the telegraphers on the Eastern lines, and none of the onerous rules of the National Agreements was in effect. This was not the case on most of the other roads. In fact, it is claimed by the union leaders that on some roads the National Agreements were in effect before the war and that in some cases certain rules were even more burdensome.

R. R. cannot comply with Transportation Act and carry out Board's contrary rulings.

On this point, we understand that the Board proposes to conserve these rules in the interest of the men while checkmating the carriers that attempt to establish directly with their men working conditions that are fair and acceptable to a majority of their employes.

It must be evident to this Board that while the Pennsylvania Railroad is anxious and willing to assist the Board in carrying out the Transportation Act, it cannot consistently comply with Section 301 of that Act which requires that disputes shall be considered and if possible be decided in conference between the representatives designated and authorized to confer by the carriers and the employes or subordinate officials directly interested in the dispute, and at the same time carry out rulings of this Board which are so diametrically opposed to this Section and to the best interests of the railroads, the public and the employes.

The officers of the Pennsylvania Railroad realize the position in which the Board finds itself at this time. We share the Board's desire to avoid any interruption of traffic and to live up in letter and spirit to the mandate of the Transportation Act that every means be taken to settle controversies that may endanger the continuous operation of the carriers.

No danger of traffic tie-up when men are satisfied.

As far as the Pennsylvania Railroad is concerned, however, there is no danger of any substantial interruption of transportation. Railroad employes who prior to Federal control lived harmoniously with their employers over a long period of years on the basis of just such relationships as we are re-establishing with our men do not strike without just cause. They will not strike unless an attempt is made to treat them unfairly and to deprive them of what they are reasonably entitled to have.

The Pennsylvania Railroad has always treated its men fairly and at the present time in its negotiation of rules covering working conditions to take the place of the so-called National Agreements, no stronger evidence could be offered of this desire on our part and of the corresponding feeling on the part of our employes than the record of these negotiations and the success which has already been attained in formulating rules for a large number of our men which are entirely satisfactory to them.

There will be no interruption of traffic under such circumstances and harmonious relations will be re-established if this Board in its desire to avoid misunderstandings does not interfere with honest efforts of the railroads to get together and continue to live together with their own men.

ARGUMENT IN RE. JURISDICTION OF UNITED STATES RAILROAD LABOR BOARD OVER NATIONAL AGREEMENTS PRESENTED TO THE BOARD BY MR. E. H. SENEFF, GENERAL SOLICITOR, PENNSYLVANIA SYSTEM.

Board never acquired legal jurisdiction over national agreements.

At the very foundation of this controversy there are involved important legal principles which the Board cannot ignore.

Our contention is that the Board had not acquired jurisdiction in a lawful manner over the dispute regarding rules and working conditions as embodied in the National Agreements when Decision No. 2 was rendered.

The rules, working conditions and agreements in force under the authority of the United States Railroad Administration, hereinafter referred to as National Agreements, had terminated by their own terms with the expiration of Federal Control, and, generally speaking, were only continued in effect at the volition of the carriers because of their being interwoven with the wage question in such a way as to come within the inhibition of that provision of the Transportation Act against a reduction in wages during the Guaranty Period.

The Board in its Decision No. 119 expressly states that the requirements of Section 301 of the Transportation Act had not been complied with in a way that would have given the Board jurisdiction over an alleged dispute growing out of the continued enforcement of the National Agreements, but at the same time stated that they had acquired jurisdiction on the ground that the dispute was one which would likely substantially interrupt commerce. This reason did not become apparent, or at least was not manifest so far as any action of the Board is concerned, until they rendered Decision No. 119.

There was no intimation of the impending interruption to commerce in Decision No. 2 upon which the foundation for taking jurisdiction was laid, but the Board evidently did assume jurisdiction because of the relation of the National Agreements to the wage question which they then decided.

Had the Board assumed jurisdiction over these agreements only during the Guaranty Period there might have been some moral justification for such action, as no legal justification can be found, but that was not the ground upon which it was done.

No bona fide dispute had arisen to warrant Board's action.

We insist that the Board in the circumstances had no lawful right or power to perpetuate these National Agreements at that time nor at any other time for that matter, and thus require the carriers after the expiration of the Guaranty Period to carry out the terms of contracts which had been made between the Director General of Railroads and his employes—some of them on the eve of the return of the roads to private control—and with which the carriers had absolutely nothing to do.

Our position is that the Board had no power or right to assume jurisdiction even on the grounds stated in Decision No. 119 until a bona fide dispute had been created as the result of an honest effort, as characterized by the Board in Decision No. 119, on the part of the carrier and its employes to adjust their differences in conference, and the Board itself says in Decision No. 119 that no such honest effort had been made. The dispute referred to in Section 307 over which the Board may take jurisdiction of its own motion when there is a threatened interruption of commerce is the dispute which may exist after an honest effort on the part of the carrier and its employes to settle the dispute in conference.

Board had no right to continue jurisdiction and temporize with subject.

We therefore repeat that jurisdiction was not conferred upon this Board in any lawful manner in any dispute respecting National Agreements when the Board perpetuated these agreements indefinitely in Decision No. 2. But let us assume for a moment that jurisdiction had been acquired.

There is nothing in the Transportation Act which warrants the Board in retaining jurisdiction indefinitely, temporizing with the subject, first deciding on April 14, 1921, that the National Agreements would cease and terminate July 1, 1921, and then deciding without a hearing on June 27, 1921, that they would not terminate, thus creating a most anomolous situation.

The Board has no equity powers, such as are commonly exercised by a Court of Chancery, to make interlocutory orders and can only follow the express mandates of the law to which they owe their creation. Section 307 imposes upon the Board the duty to receive the dispute for hearing and as soon as practicable and with due diligence decide same. Can it be said that the requirement of the law has been complied with when the Board, without the hearing contemplated in Section 307, indefinitely continued these agreements in effect by Decision No. 2, dated July 20, 1920, then abrogated them on April 14, 1921, by Decision No. 119 after a hearing, and then revived them again without a hearing in Addendum No. 2 to Decision No. 119 on June 27, 1921?

No express power is given the Board thus to handle the subject and I know of no rule of statutory construction which will accord to it any such implied power. If these National Agreements respecting some of the rules and working conditions were unjust and unreasonable on April

14, 1921, they were equally so on June 27, 1921. We submit that the Board had no more right to reverse itself in this summary fashion without a hearing and more than 60 days after its original decision and thus lead the carriers into the absurd position they now occupy than has a court to open a judgment rendered by it after the term has gone by.

In both cases fundamental, substantive rights are involved which should not be trifled with in any such way. If the Board can do this, when may the parties concerned consider the case terminated and the question involved finally adjudicated? Manifestly if Congress had intended to confer any such plenary power on this Board it would have expressly so provided in no uncertain terms.

Board's own views as to rights of both sides to a controversy.

In their Announcement, dated April 19, 1920, the Board expressed its views as follows respecting the rights of both sides to a controversy to a hearing:

> "As stated, the law provides the Board shall hear. This of course means that the Board shall hear both sides to the controversy.
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> * * * * * * * * *
>
> "It must be thoroughly understoood that the Board cannot and will not undertake to hear any disputes or controversies except those which it is authorized by law to hear, and cannot and will not hear the application of parties who are acting in disregard of the law, and who are not complying with the law and the rules of the Board."

And, again, the Board in its Decision No. 17 in response to an application to re-open Decision No. 2, said:

> "QUESTION.—Application of the Order of Railroad Telegraphers for a reopening of Decision No. 2, in so far as that decision passes upon the claims of the Order of Railroad Telegraphers.
>
> "DECISION.—The Board is not inclined to reopen a case after it has given a public hearing and published a decision thereon. The application is therefore denied."

Assuming again, for the sake of argument only, that the Board had complete jurisdiction over the subject matter, we challenge its right or power to lay down principles as it did in Decision No. 119 to be observed by employer and employe in the matter of making contracts. I am unable to find a word or syllable in the Transportation Act conferring any such power upon the Board.

No power given to Board to legislate 16 principles.

The Board in prescribing these 16 principles has undertaken to legislate respecting property rights and obligations of the carrier and employes, and no such power has been delegated to the Board by Congress.

Even though such power had been delegated by Congress, it would not be constitutional, as the exercise of any power compelling the carrier and the employes to observe substantive principles in the adjustment of differences between them in the making of contracts amounts to an appropriation of property rights which cannot be taken away from either in this manner without infringement upon their constitutional rights.

If the Board has no such power to lay down principles, it is a vain and useless proceeding to call upon the Board to interpret these principles. The Board is a creature of the statute and can assume no powers except those expressly conferred, and these are found in Sections 301 and 307 of the Transportation Act so far as this controversy is concerned. The principles, underlying rules and working conditions must in the first instance be the subject of conference as a part of the whole case and if a dispute arises as a result of these conferences, the Board has power to decide the justness or unjustness of such principle. It is conceivable that the Board might lay down principles for settlement of disputes to which neither employer nor employe could subscribe.

Congress intended roads and employes should be free to deal with each other.

Congress never intended that the Labor Board should usurp the rights and obligations of the contracting parties in this way, but on the other hand it was the obvious intention of Congress that the parties directly interested in the matter should be free and untrammeled to deal with each other in any way they see fit regardless of locality or territory and likewise regardless of majority or minority representation, until a dispute which cannot be settled in conference arises and then the Board has a right to function.

To illustrate: There are marine employes of the railroad located in New York, Philadelphia and Norfolk. The conditions in each location differ widely. A majority of the employes of the Marine Service are located in New York. Why should they dictate the rules and working conditions under which the Marine employes at Norfolk or Philadelphia should work? It is manifestly clear that the employes in each location should have the right to negotiate locally, and we have negotiated with these employes separately for each location.

On the subject of negotiations on matters referred to in Decision No. 119 the Board in Interpretation No. 1 to Decision No. 119 held:

> "QUESTION.—How shall carriers and their employes conduct their negotiations on the matter referred back by Decision No. 119?
>
> "DECISION.—Decision No. 119 does not attempt to direct how the carriers and their employes shall conduct their negotiations.
>
> "While Decision No. 119 refers the controversy back to the individual carriers and their employes for negotiations, it does not limit or restrict an individual carrier and its employes from going into concert with another carrier and the duly authorized representatives of its employes, or any number of other carriers and the duly au-

thorized representatives of their employes for the purpose of jointly conducting conferences on the matters referred back by this decision."

Road's action complies with law and with fair interpretation of Board's decisions.

Notwithstanding all this it has been and is now the desire of the management to co-operate with its employes in carrying out to the fullest extent possible the 16 principles enunciated by the Board. *When the Board fully understands the steps that have been taken by the management and the employes in an effort to observe these principles we believe you will see that what has been done not only complies fully with the requirements of the Transportation Act, but likewise complies fully with the 16 principles if given a fair and reasonable interpretation.* At all events the employes, in case any of them at any time feel aggrieved, and an adjustment of differences cannot be effected in conference, can appeal to the Board for relief.

There is one thing more to which I desire to direct the Board's attention and that is the apparent growing tendency on the part of the Board, as I view it, to group the carriers as a whole and subject them to the same treatment regardless of different or varying conditions. It is apparent to me that Congress had in mind in the enactment of the Transportation Act, controversies between individual carriers and their employes, and if that is so it is the legal duty of the Board to carry out that direction to the fullest extent.

STATEMENT TO THE UNITED STATES RAILROAD LABOR BOARD BY MR. J. T. WALLIS, CHIEF OF MOTIVE POWER, PENNSYLVANIA SYSTEM, ON THE EFFECTS OF THE BOARD'S RECENT DECISIONS.

No serious disagreement with P. R. R. men for long period of years.

Mr. Whiter has already said to you, prior to Federal Control, the Pennsylvania Railroad, practically speaking, had no agreements with its employes. For a period of over 40 years there had been no strike of moment or other serious disturbance resulting from disagreements between the management and the men. Every employe understood that he had the right of appeal on any matter affecting his welfare to the highest operating officer above him, to the General Manager. As a consequence, substantial justice was done to all, the employes as a body were satisfied and worked in close co-operation with the officers.

With the beginning of Federal Control, it became evident that the U. S. Railroad Administration intended to deal only with certain labor organizations, without regard to whether they represented the men or not, and these organizations—generally speaking—were going to have what was substantially a closed shop.

Evident intention of Railroad Administration to deal only with certain labor organizations.

It is a matter of common knowledge that the Director General of Railroads instructed the administration officers not to resist in any way the efforts of these organizations to increase their membership, but rather to look upon the matter in a sympathetic way.

With this attitude towards the subject, it was not difficult for the organizations to persuade the rank and file that their affairs were best presented to the Director General through them, and this was made more evident as

time went on by the fact that their petitions received prompt response, whereas the petitions of others did not.

Later on the *dog collar* was more firmly fixed on the non-union man when his grievance was referred to the union heads to pass on before being acted on by the Director of the Division of Labor. The non-union man, harassed in the shop where he worked, disregarded by his employers, having to present his grievance through a union committee, accepted what seemed to be the inevitable and joined the union without regard to what had been his relation to his employer or condition of employment prior to Federal Control.

Thus Federal Control had brought to the union over night what they had looked forward to for years. It only remained to perpetuate this condition for all time and this they attempted to do through the so-called National Agreement, which gives the right to the union to represent all men, union and non-union alike, and requires all men, union and non-union to present their grievances through a union committee, but gives the non-union man no voice in its selection.

There can be no doubt in the mind of any reasoning man that this is the form of collective bargaining advocated by the union and rejected by the employers group in President Wilson's first industrial conference. There can be no doubt that this ability to control absolutely, without regard to the right of others either employer or non-union employe, is what certain of the unions desire above all else. Their advocacy of the Plumb Plan, the Anderson amendment to the Transportation Act, and the proceedings of their various conventions all show this to be the fact beyond peradventure of a doubt.

Congress rejected closed shop plans of unions in defeating Anderson amendment.

In returning the railroads to their owners, Congress rejected this view, rejected the Anderson Amendment and with it the closed shop, and imposed on your honorable body the duty of informing the public correctly as to the facts, to the end that justice to all would finally result.

It remains to be seen whether the decisions you make will give to the unions the conditions that Congress denied them, or preserve for all the rights Congress intended that they should have.

The Penna. R. R. has believed that your Honorable body has intended that its decisions be in conformity with the law and we have tried to interpret them in the light of the law. We have believed that you intended that shops shall be open alike to union and non-union men, all on equal footing. You have, however, required us to come before you on a matter that seems so plain to us that we cannot understand why our position should be open to any question and this, together with certain of your recent decisions, has shaken our faith in the view that we have heretofore held.

Employers must be allowed to get together with employes, free from union domination.

It seems to us the time has come when that decentralization in handling labor matters contemplated under the Transportation Act should take place and, in fact, we think it has already been put off too long. Employers must be permitted to get together with their employes free from centralized labor domination and control, and we have looked to your Honorable body to bring about this condition. Time, however, has gone on and the closed shop agreements negotiated by the Railroad Administration continue in effect. The matter has drifted along and will continue to drift unless some one takes definite action.

Reviewing the subject since the end of Federal Control, *first,* the agreements were continued during the Guaranty

Period by the fact that Congress required that rates of pay should not be reduced. It seemed impossible to separate rules from conditions of employment at that time under the rules as written. *Second*, from September, 1920, to July, 1921, they have been continued out of respect for you gentlemen. You have taken the subject of conditions of employment under advisement on your own motion and have set rates in your Decision No. 2 applicable only to the conditions of employment specified in the so-called National Agreement.

Recent action by Board seems to deny minority one of their rights.

Your Decision No. 119 has indicated to us that any set of rules negotiated between the employes of the carrier and the Management, complying with the principles in Decision No. 119, will receive your approval. Your interpretation No. 5 has altered our view of your intent.

We cannot understand why you should deny a minority the right to make an agreement provided it does not infringe the rights of the majority. We cannot escape the conclusion that you are denying to the minority one of their rights, and forcing them to agree with and be subservient to the union majority.

We believe that it is but a step from the closed shop and union domination in Interpretation No. 5 to union domination for the railroads as a whole and to uniform national agreements, national boards of adjustment and those things denied labor organizations when the Anderson amendment was rejected.

We believe it because we have all seen what happened during government control and we think that your action and recent decisions are so nearly in conformity with what happened during Federal control that they cannot but produce a like result.

We know that exception will be taken to what we have said, and notwithstanding the position the union took at the first industrial conference and in the various resolutions

they have passed, they will say now that they do not contemplate a closed union shop.

We heard that statement during Federal control at the very time when *the unions were negotiating an agreement with the Director General represented by men who also belonged to the union, which from our viewpoint was intended to and did close the shop.* It may be denied that a closed shop existed during Federal control. Whatever you call that condition that existed, it is a condition that is not contemplated by the law and the public does not approve and that an informed public will resent. It will serve no good purpose to put off the day of change until a resentful public, which intends to see economical and efficient management of the railroads an accomplished fact, expresses itself and tells us not only what we should do, but what we should have done long ago.

STATEMENT TO THE UNITED STATES RAILROAD LABOR BOARD OF WHAT THE PENNSYLVANIA SYSTEM MANAGEMENT HAS DONE AND IS DOING IN CONNECTION WITH THE PROVISIONS OF DECISION NO. 119, PRESENTED TO THE BOARD BY MR. H. A. ENOCHS, SUPERINTENDENT WAGE BUREAU, PENNSYLVANIA SYSTEM, EASTERN REGION.

To carry out Labor Board decision P. R. R. proposed plan of employe representation.

In order to carry out the provisions of Decision 119 of the U. S. Railroad Labor Board, the management of the Pennsylvania System on May 20, 1921, issued a statement announcing a plan to determine employe representation on its System. This statement had the widest distribution and was posted at many points on the railroad, so that every employe would have an opportunity to know what the plan was.

The purpose of the plan was the election of employe representatives to negotiate new rules and working conditions as the Decision of your Board terminated and ceased the rules, working conditions and agreements in force under the authority of the United States Railroad Administration; the aim being to develop a plan under which every individual employe might have a voice in the progressive efforts of the railroad.

It was the hope of the management that the employes thus chosen as representatives might serve as a nucleus of a committee which should frequently confer with the officers on all matters, not only affecting their welfare, but also the welfare of the public and the railroad.

Fair, impartial and secret ballot distributed to all employees.

In order to carry out this plan, notices addressed to different classes of employes were posted on bulletin boards and a ballot placed in the hands of every individual employe entitled to vote. These notices and ballots explained clearly and definitely just how the whole question was to be handled.

The balloting and counting was conducted in an absolutely secret manner, the employe placing his ballot in an envelope which he sealed, and which envelope was opened in the presence of employes and representatives of the management jointly acting as tellers, nothing being shown on the ballot or the envelope containing same to indicate by whom voted.

All of this was most carefully explained to representatives of the employes and an invitation extended to employes' representatives to be present at the counting of the ballots. They were also told that they had the utmost liberty to take any steps they pleased towards electing any eligible employe representative who in their judgment was best qualified to speak and act for them, regardless of his affiliations with labor organizations, or otherwise.

Negotiations were then entered into with the employes elected.

The Management of the Pennsylvania Railroad had every reason and desire to faithfully carry out the directions of the Board as set forth in Decision 119. The employes were approached through the various representatives with whom we had been dealing during Federal control and during the continuance of the Railroad Administration agreements and orders.

Our plan of compliance with the terms of Decision 119 was thoroughly discussed with these men, and in the case of the Signalmen they participated in the form-

ulation of the ballot, and viewed with pleasure our efforts in helping to determine employe representation of that class.

In our discussion with similar representatives of the Maintenance of Way employes they manifested a most cordial responsive attitude in their desire to co-operate with the Management.

We met the telegraphers committee, represented by various chairmen with whom in the past we have discussed affairs relating to this class, and they at first approached the question in a more or less skeptical way, but before the ballot was spread they took steps among themselves to protect whatever interests they thought should be protected and elected employe representatives.

The Marine Department employes of the Philadelphia Harbor were met with, and these men not only endorsed the plan, but got behind it with all of their zeal, and demonstrated they were in hearty sympathy with the railroad's efforts towards determining employe representation under Decision 119.

The dining car and restaurant service employes committees were met and the plan of voting was described to them, and they took part in the plan, which resulted in the election by them of employe representatives.

Shop Craft union objected to ballot, claimed right to represent shop craft employes and persuaded men not to vote.

When we approached similar representatives of the Shop Crafts employes a feeling of militancy on their part pervaded the atmosphere of the meeting room; in fact, during our deliberations with them, which lasted about three hours and fifteen minutes they held before our eyes the bogey of strike, as though the mere mention of the words would cause us to agree with the view they have taken that the words "system organization" as used in Decision No. 119 meant them and them only, and that the Board had no other organization in mind except an organization of one of the so-called "sixteen standard recognized labor organizations."

The stenographic record of this meeting will disclose that the management

used every available means to enlist the sympathetic cooperation of the shop crafts committee, but without success. They were not willing to submit this proposition to a fair test.

They stated that we were discounting the elections held by their organizations. It is true we were meeting committees of the shop crafts organization, (System Federation No. 90) because during the period of Federal control we had been instructed so to do by the Federal Administration, and we carried out such instructions, but when the time came that the management of the Pennsylvania System had to assume the responsibility of knowing that the representatives of employes, who styled themselves as the duly authorized and designated representatives, then the management must assure themselves that such representatives were vested with representative authority, and this could only come about through a determination of the question by a ballot vote submitted to all employes for their participation, if they so desired.

Road had no means of knowing who were representative of men without taking vote.

We had no means of knowing whether these self-styled chairmen were duly designated or authorized by our employes nor could we know until they submitted to a test, and had they been imbued with the spirit of co-operation, as they should have been, would have cheerfully entered into this plan.

Not being satisfied with the militant attitude displayed by them at the meeting, they have maintained this attitude by the circulation of pamphlets which are exhibits filed in our answer.

Notwithstanding the attitude of System Federation 90, we would most respectfully call the attention of the Board to the situation existing at Altoona Works, which is the manufacturing plant of the system and where approximately 5,000 men of the different classes are employed under the Works Manager. At this point the employes elected their representatives by a voting system similar to the Australian ballot.

They have negotiated and concluded a schedule of regulations satisfactory to the representatives of the employes and to the Management, and your Board was so notified on June 28, 1921. These regulations were made effective July 1, 1921. At the other points on the system, namely, in each of the four regions the shop craft employes elected their representatives and negotiations are under way.

Following our meeting with the Shop Crafts we met the representatives of the Clerical Forces with whom we had been dealing during Federal control and during the continuance of the Railroad Administration agreements and orders. They also displayed a spirit of antipathy toward the voting plan proposed by the management. Inasmuch as the Secretary of the Board has notified us by wire that the Brotherhood of Railroad Clerks have filed an *ex parte* submission, copy of which has not yet been received, this subject will be later treated separately.

Success of road's negotiations with elected representatives of employes.

Let us now examine the results which followed the taking of the vote, the selection of employe representatives and our present condition:

The Signal Department employes selected their representatives; negotiations were begun and have been concluded satisfactorily to the employes and to the management, with the exception of the question regarding the payment of punitive overtime for service beyond the eighth hour, Sunday and holiday work and travel time, which question has been referred to your Board in a joint submission.

With the Maintenance of Way employes, negotiations are under way.

With the Marine Department employes of Philadelphia harbor, committees elected and negotiations have been concluded, and your Board so notified.

With the Marine Department employes of New York harbor, negotiations are under way.

With the Telegraph Department employes, committees were elected and negotiations are under way.

With the Clerical Forces, committees were elected and negotiations are under way.

With the Cooks, Waiters and Restaurant employes, negotiations have been completed in a manner satisfactory to the employes and the Management, and with the Dining Car Stewards negotiations are under way.

Negotiations have been concluded with the engineers, firemen, hostlers, conductors, trainmen and switchtenders, and the only matter remaining open between these classes of employes and ourselves is the question of overtime in road freight service, which question was submitted to your Honorable Board on June 6th and decision requested. This matter is still in the hands of your Board awaiting decision.

How Joint Reviewing Committee works. Similar plan desired by other employes.

We also wish to call your attention to the creation, December 29, 1920, by our engine and train service employes and ourselves of a Joint Reviewing Committee which began to function in February, 1921, and has been functioning since in a manner satisfactory to the employes and the Management. This Joint Reviewing Committee receives for adjudication all matters which cannot be settled between the Management and representatives of the employes. It has acted as a clearing house for the disposition of disputed questions and a proof of its work and successful operation lies in the fact that up to the present time no question has come before this body that has failed of settlement.

The method followed in settling controversial matters with our engine and train service employes has so appealed to certain other classes of our employes that we are in receipt of a request to establish for them a Joint Reviewing Committee along lines similar to that followed for employes in the engine and train service.

The method followed by the Pennsylvania System Management in complying with the terms of Decision No. 119 has been one of absolute fairness to all concerned.

EXCERPTS FROM STATEMENT TO UNITED STATES RAILROAD LABOR BOARD BY MR. WHITER IN DIRECT REPLY TO CHARGES MADE BY SYSTEM FEDERATION NO. 90, AMERICAN FEDERATION OF LABOR.

Regulations agreed to at Altoona Works. Efforts of union to defeat vote of employes.

The carrier has complied with Decision No. 119 and denies that there is or has been any interference by the officers of the carrier in connection with the selection of representatives by the employes.

The carrier denies the right of the Board to continue the effectiveness of the so-called Shop Crafts National Agreement beyond July 1st, 1921, as was done by Addendum 2 to Decision No. 119, and further protests the continuation of their provisions for the following specific reasons:

(1) Employe representatives have already been elected and are now negotiating with the Management a code of regulations governing working conditions, and at the Altoona Works, as your Board has been advised, the negotiations have been completed and the regulations agreed to are now in effect.

(2) The carrier denies that every possible effort has been exerted by the representatives of System Federation No. 90 to comply with Decision No. 119, in support of which we attach Railroad's Exhibits "H," "I," "J," "K," "L" and "M" showing evidence of action taken by the Federated Shop Crafts to defeat the efforts of the Pennsylvania System to secure a vote of its shop employes.

Issue is one of interpretation of Board's language of which P. R. R. submitted an analysis.

The Management denies that a very tense situation has been created for reasons set forth in paragraph (1) above.

* * * * * * *

The issue raised by System Federation No. 90 is a question of interpretation of Decision No. 119 regarding the phrase "system organization of employes of each carrier" in Section 2 of the Decision, found on Page 5, the word "organization," in Principle No. 15, and the phrase "representatives of a majority of the employes of each of the several classes" in Principle No. 7.

At this point we wish to say that we have not only read Decision No. 119, but have re-read and analyzed same very carefully. We have not taken up an isolated phrase in the Decision as indicating the trend of thought of the Board but have undertaken to review this Decision, paragraph by paragraph, and have been unable to reach any other conclusion as to the intent of the Board other than that which has been challenged by System Federation No. 90; namely, that

the Board in its Decision did not extend to System Federation No. 90 any franchise or special privilege, neither did it extend to any particular organization which had membership on the Pennsylvania System any franchise or special privilege to denominate itself as the "system organization" within the meaning of Section 2 of Decision No. 119.

* * * * * * *

How is the majority to be determined? Are we to accept the word of the Chairman of each of the 31 organizations on our line as proof positive that each one of these speaks and acts for a majority of employes; that they are the system organization so denominated by the Board?

Manifestly such is impossible as in a number of instances the same class of employes claim to be represented by more than one organization.

Effort of management was to determine fairly employes' choice of representation.

It was the effort of the Management of the Pennsylvania System to definitely determine choice of representatives by putting in motion the voting machinery plans outlined above, and in the execution of which we sought the cooperation of each of the groups of employes through the Chairmen of the respective organizations and with whom we have had dealings in the past, and by general notice to all employes, so that none would be missed.

In no better way can representation of all employes be determined than by submitting a fair and impartial ballot to all employes. This is exactly what the Management did in carrying out the provisions of Decision No. 119.

Principle No. 15 reads in part as follows: "The majority of any craft or class of employes shall have the right to determine what organization shall represent members of such craft or class. Such organization shall have the right to make an agreement which shall apply to all employes in such craft or class. No such agreement shall infringe, however, upon the right of employes not members of the organization to present grievances either in person or by representatives of their own choice."

Management placed only reasonable construction on Board's language.

The word "organization" occurs in this principle three times. The word is not preceded by the word "labor" as in the last sentence of Principle No. 6, neither is there any explanatory clause that the word organization as used in the principle means one of the 31 organizations which are named by the Board as parties, as set forth in Exhibit "A" and Addendum No. 1.

The Management placed the only reasonable construction on this principle

that is possible within the purview of its own language, and that is, they prepared a ballot which did not name any organization, but did provide for voting for employe representatives, whether they were members of labor unions or not, and in this free, frank way, each employe had the right of self-determination without being cajoled or coerced into the belief that the Management was for or against any particular form of representation.

STATEMENT OF POLICY OF PENNSYLVANIA RAILROAD ANNOUNCED TO THE LABOR BOARD IN CONCLUDING THE RAILROAD'S PRESENTATION.

You have heard our case. You have been told freely of our aims and our methods of procedure and what we hope to accomplish. You have been told of our success in negotiating with those of our employes who were willing and did meet us half way. You have been told of our success at Altoona Works where a majority of the Shops Crafts voted for their representatives who in turn completed their schedule in conferences with the Company's representatives and put it into full force and effect on July 1, 1921.

We propose to continue negotiations with those representatives who were duly elected by those who exercised their right to vote and will put into effect the schedules as soon as they are completed, and agreed to, and of which you will be currently advised.

PRINCIPAL EXHIBITS PRESENTED BY PENNSYLVANIA RAILROAD.

RAILROAD'S EXHIBIT A.

Copy of notice to all employes announcing plan of employe representation.

Employes to Have Voice in Management.

New Plan of Employes Representation for Pennsylvania System.

Broad Street Station,
Philadelphia, May 20, 1921.

To all Officers and Employes:

In June, 1919, soon after my return from France, I made the statement before a meeting of our employes and their families that I believed it was the right of an employe to have a voice in determining the rules and regulations under which he should work.

Since that time, I have been consistently opposing the "National Agreements," because I have believed the effect of those "Agreements" was to take that right away from you, and to take away from our officers the privilege of dealing with our own men.

By Decision No. 119 of the United States Railroad Labor Board, these "National Agreements" have been abrogated, as of July 1, 1921. In the meantime a substitute must be negotiated, which will be mutually satisfactory to the management and to the employes.

Certain principles have been laid down in Decision No. 119 for our mutual guidance. I quote those who have a direct bearing on what I have to propose to you:

1.

"An obligation rests upon management, upon each organization of employes, and upon each employe to render honest, efficient and economical service to the carrier serving the public."

2.

"The spirit of co-operation between management and employes being essential to efficient operation, both parties will so conduct themselves as to promote this spirit."

Also in a recent message to Congress, President Harding stated the principle that:

> "Labor must join management in understanding that the public which pays is the public to be served."

Principle No. 7 of Decision No. 119 reads as follows:

7.

> "The right of employes to be consulted prior to a decision of management adversely affecting their wages or working conditions shall be agreed to by management. This right of participation shall be deemed adequately complied with, if and when the representatives of a majority of the employes of each of the several classes directly affected shall have conferred with the management."

Principle No. 15 reads:

15.

> "The majority of any craft or class of employes shall have the right to determine what organization shall represent members of such craft or class. Such organization shall have the right to make an agreement which shall apply to all employes in such craft or class. No such agreement shall infringe, however, upon the right of employes not members of the organization representing the majority to present grievances either in person or by representatives of their own choice."

I also quote from the preamble of Decision No. 119, as follows:

> "To secure the performance of the obligation to confer on this dispute, imposed by law on officers and employes of carriers, to bring about the recognition in rules of differences between carriers where substantial, to preserve a degree of uniformity in rules regulating subject matters of a general nature, to prevent to some extent the operation in negotiations of a possible disparity of power between the carriers and their employes, and to enable the representatives of employes of each carrier and the officers of that carrier to participate in the formulation of rules under which they must live, the Labor Board has determined upon the following action." (The Board then recites its decision.)

There is an apparent discrepancy between Principle No. 7 and Principle No. 15, but the intent of the decision, as stated in the preamble, is "to enable the representatives of employes of each carrier and the officers of that carrier to participate in the formulation of rules under which they must live."

I quote the above because I want our employes and our officers to realize that we have a mutual obligation to the public, which obligation can only be fully met by close cooperation.

The aim of the Pennsylvania Railroad during the past year has been to re-establish with its own men a happy and harmonious relationship. This decision of the U. S. Railroad Labor Board now makes this possible.

The railroads are asked to confer with representatives of the different classes of employes, with the view to establishing proper rules and regulations. This is precisely what the Management of the Pennsylvania Railroad has desired.

The employes have the right to select their representatives from among their own number.

Detailed conditions designed solely to secure an accurate expression of the desire of the employes, under which representatives will be chosen, will be announced later.

The men thus selected will be recognized by the Management as empowered to speak for the men by whom they are chosen.

The representatives chosen by the employes may or may not be union men, as the employes themselves decide.

As soon as the representatives are elected, the officers will seek a conference with them, in order to negotiate rules and regulations.

The representatives so chosen will be protected in their position no matter what may be their attitude with reference to the provisions of such rules and regulations.

They will be provided with the necessary transportation, and the Company will reimburse them for time lost, and for reasonable expenses while on this service.

The above applies to a union man, as well as to a non-union man.

While the immediate emergency to be covered is the preparation of mutually satisfactory rules and regulations, it is the hope of the Management that the men thus chosen

as representatives may serve as the nucleus of committees which shall frequently confer with the officers on all matters, not only affecting your welfare, but also the welfare of the railroad, and of the public that we all serve.

Together, we will develop a plan under which every individual employe may have a voice in the progressive efforts of the railroad itself.

This plan, of course, will not be put into effect for men in engine and train service. All controversial questions affecting these men are now settled by the Joint Reviewing Committee, and it is earnestly desired to establish a similar method for settling controversial questions affecting employes in all other branches of the service.

There are three "Musts" that we will have to work out in co-operation:

1. The public *must* have efficient and economical service.

2. The officers and employes *must* be paid good wages, in return for good service rendered.

3. We *must* earn a reasonable return on the capital invested in the property.

Through the representatives of the employes to be selected in the manner mentioned we shall be able to get closer together; we shall be able to look one another in the face, and mutually to understand the facts affecting our common interest. The highest interests of the Pennsylvania Railroad can only be realized in the welfare of its employes.

I earnestly ask, therefore, the hearty co-operation of every employe, to the end that we may successfully work together. Doing that, the Pennsylvania Railroad will continue to be one of the greatest railroads in the world. We will add to the happiness and material welfare of every employe, and we will take a real step along the road to the restoration of general prosperity.

Approved:

SAMUEL REA.
President.

W. W. ATTERBURY,
Vice-President in charge of operation, Pennsylvania System.

RAILROAD'S EXHIBIT C

Pennsylvania System.

Eastern Region.

May 26, 1921.

Sample of ballot distributed to employes to determine their choice of representation.

Decision No. 119 of the United States Railroad Labor Board ceases and terminates on July 1, 1921, the rules, working conditions and agreements in force under the authority of the United States Railroad Administration.

The Labor Board directs that the management and employes designate and authorize representatives to confer and decide rules and working conditions, such conferences to begin at the earliest possible date. Undue delay on the part of carrier may cause extension of rules, working conditions and agreements beyond July 1st. Undue delay on the part of employes may cause termination at an earlier date.

The Labor Board laid down sixteen principles to be kept in mind in negotiations between the management and employes. Principle No. 15 reads as follows:

> "The majority of any craft or class of employes shall have the right to determine what organization shall represent members of such craft or class. Such organization shall have the right to make an agreement which shall apply to all employes in such craft or class. No such agreement shall infringe, however, upon the right of employes not members of the organization representing the majority to present grievances either in person or by representatives of their own choice."

In order to fairly determine the employes' choice of representation, a vote will be taken by letter ballot as set forth below.

This vote is to be taken without reference to or consideration of the membership or non-membership in any organization. Employes are free to vote their choice according to their own interests and without prejudice. Voting will be confined to active employes.

The employes under each Master Mechanic including shop craft employes in other departments of the same division or territory will vote for three employe representatives from the craft in which they are employed to constitute a

Local Craft Committee. If empowered by a majority vote of employes the Local Craft Committee will select from among their number a Local Chairman, who will be a member of the Division Committee, who will speak and act for the employes before the Division Officers.

The Local Chairman of each craft in this region will elect from among their number one craft representative who will be a member of the Regional General Committee. The Regional General Committee will speak and act for the employes before the General Superintendents and General Manager.

Two or more votes in one envelope and two or more votes from any one employe will not be counted.

Enclosed are three envelopes. Ballot, when filled out should be placed in small envelope marked "Official Ballot" and envelope sealed. This envelope should then be placed in the envelope having in upper left hand corner blank spaces for name, occupation, location and division of the employe filling out the ballot. These blank spaces must be filled in and this envelope should then be sealed and placed in the large envelope addressed to Superintendent, and mailed by Railroad Service or United States Mail.

Count of ballots will begin Monday, June 13, 1921, at 9 A. M., Eastern Time, Room 53, Broad Street Station, Philadelphia, Pa., in the presence of representatives of the management and such representatives of the employes as desire to be present.

BALLOT

I hereby cast my vote for the employes shown below, to act as my representatives on..... Division, in connection with negotiations concerning disposition of the matter covered in Decision No. 119, United States Railroad Labor Board.

CHOICE OF REPRESENTATIVE COMMITTEE.

*Vote for Three**

Name of Committeeman Voted for.
.....
Occupation .....
Location .....
Division .....
Name of Committeeman Voted for.
.....
Occupation .....
Location .....
Division .....
Name of Committeeman Voted for.
.....
Occupation .....
Location .....
Division .....

*Give in each case the Name, Occupation, Location and Division of the person for whom you are voting to represent you.

Monday June 6, 1921, is fixed for the day of the election and ballots must be forwarded not later than that date by train service or by United States Mail to the Superintendent, who will check against the payrolls to see that all those voted are employes. Ballots with the poll list or roster will then be promptly forwarded by registered mail to the General Manager, who will arrange for the count to begin on Monday, June 13, 1921, at 9 A. M., Eastern Time, Room 53, Broad Street Station, Philadelphia, Pa.

RAILROAD'S EXHIBIT D.

Pennsylvania System.

Statement Showing the Number of Active Employes on June 6, 1921, Compared with the Number of Ballots Cast as Shown in Exhibit I Submitted by System Federation No. 90.

	Number of active employes as of June 6, 1921.	Number of ballots cast as shown in Exhibit I submitted by System Federation No. 90.	Number of ballots cast in excess of the number of active employes.
Machinists	12,129	13,370	1,241
Carmen	14,120	14,258	138
Boilermakers	3,074	3,705	631
Blacksmiths	1,602	1,915	313
Sheet Metal Workers	1,916	1,929	13
Electrical Workers	2,466	2,068	398*
Total	35,307	37,245	1,938

*Number cast less than active employes.

RAILROAD'S EXHIBIT M.

ATTENTION!

Copy of notice distributed by union to persuade employes not to vote.

Do you appreciate the progress you have made the last several years under the protection and representation of System Federation No. 90 of the Railway Employes Department?

If you do appreciate it, show it now, by not voting a Company Ballot.

But instead, vote a System Federation No. 90 Ballot.

Do you want a ten hour day?

Then vote the Company Ballot.

Do you want to work piece work?

Then vote the Company Ballot.

Do you want to work over-time for straight-time pay?

Then vote the Company Ballot.

If you don't want the protection of a real labor *organization* of your *own* choice—

Then vote the Company Ballot.

If you want to be the pawns of a few uncontrolled individual representatives—

Then by all means vote the Company Ballot.